



# Taxation of Chargeable Gains Act 1992

## 1992 CHAPTER 12

### PART III

INDIVIDUALS, PARTNERSHIPS, TRUSTS AND COLLECTIVE INVESTMENT SCHEMES <sup>[F1]</sup>ETC

### CHAPTER II

SETTLEMENTS

*Migration of settlements, non-resident settlements and dual resident settlements*

#### **<sup>[F1]</sup>87M Cases where recipient of onward gift is user of remittance basis**

- (1) Subsection (2) applies where—
  - (a) ignoring this section, a person is treated by section 87K(2) as receiving a capital payment from the trustees of a settlement at a time (“the time of receipt”) in a tax year,
  - (b) section 809B, 809D or 809E of ITA 2007 (remittance basis) applies to the person for that tax year, and
  - (c) the payment is not treated by section 87L(2) as received by the settlor.
- (2) Section 87I(1)(a) has effect as if the capital payment were received from the trustees by the person at the time of receipt, and section 87K(2)(a) and (b) do not have effect for the purposes of sections 87 and 87A in the case of the payment.
- (3) The rules in subsection (4) apply where—
  - (a) in the case of a settlement, chargeable gains are (ignoring this section) treated by section 87K(3), but not as a result of the operation of section 87L(4), as accruing to a person in a tax year by reference to a gift within section 87I(1)(d) made to the person,
  - (b) section 809B, 809D or 809E of ITA 2007 applies to the person for that tax year, and

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**Changes to legislation:** *Taxation of Chargeable Gains Act 1992, Section 87M is up to date with all changes known to be in force on or before 07 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (c) none, or part only, of the gains is remitted to the United Kingdom in that tax year.
- (4) The rules are—
- (a) section 87I(1)(a) has effect—
    - (i) as if a capital payment were received from the trustees by the person at the time the gift is made, and
    - (ii) as if the capital payment were equal in amount to so much of the gains as is not remitted in the tax year mentioned in subsection (3)(a) of this section,
  - (b) for the purposes of section 87J—
    - (i) the whole of the capital payment is a “matched amount”, and
    - (ii) the whole of the matched amount is its “untaxed part” (and the matched amount has no “taxed part”), and
  - (c) the amount of the gains treated by section 87K(3)(a) and (b) as accruing to the person by reference to the gift is reduced by the amount of the capital payment.
- (5) Where the capital payment mentioned in section 87I(1)(a) is one treated as received by subsection (2) or (4) of this section in connection with the operation of sections 87I to 87K on a previous occasion, section 87I(1) has effect—
- (a) with the omission of its paragraph (b),
  - (b) as if the reference in its paragraph (c) to the original payment were, instead, to what was the onward payment on that previous occasion, and
  - (c) as if the references in its paragraph (d) to the original payment were, instead, to so much of that onward payment as was on that previous occasion within any of sub-paragraphs (i) to (iii) of that paragraph.
- (6) Section 87I(4) and (7) (interpretation of references to gifts and their making) apply also for the purposes of subsections (3) and (4) of this section.]

#### **Textual Amendments**

- F1** Ss. 87D-87P inserted (with effect in accordance with Sch. 10 para. 1(12)-(15) of the amending Act) by [Finance Act 2018 \(c. 3\)](#), [Sch. 10 para. 1\(1\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied by [1997 c. 16 Sch. 12 para. 12\(7\)](#)[1314](#)
- Act applied by [2002 c. 23 Sch. 16 para. 48\(1\)\(2\)](#)
- Act construed as one with reg. 37 by [S.I. 2006/575 reg. 37\(2\)](#)
- Act construed as one with reg. 38 by [S.I. 2006/575 reg. 38\(3\)](#)

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 4(10)(11) inserted by [2016 c. 11 s. 15\(4\)](#)
- s. 4(10) words inserted by [2016 c. 24 s. 83\(11\)](#)
- s. 35(3)(d)(xviii) added by [2008 c. 17 Sch. 7 para. 9](#)
- s. 35(3)(d)(xviii) inserted by [2008 c. 18 Sch. 13 para. 46](#)
- s. 35(3)(d)(xviii) repealed by [S.I. 2008/3002 Sch. 1 para. 42](#)[Sch. 3](#) (This amendment comes into force on the day 2008 c. 4, s. 5 comes into force, see art. 1(2). That provision was brought into force on 1.12.2008 by [S.I. 2008/3068](#), art. 2(1)(b))
- s. 104(4)(b)(i) words substituted by [S.I. 1989/469](#), reg. 27(2) (as amended) by [S.I. 1997/1716 reg. 13\(1\)\(b\)](#)
- s. 107(11) words substituted by [S.I. 1989/469](#), reg. 27(2A) (as amended) by [S.I. 1997/1716 reg. 13\(2\)\(b\)](#)
- s. 169S(4A) inserted by [2015 c. 11 s. 43\(2\)](#)
- s. 587B inserted by [2000 c. 17 s. 43\(1\)](#)
- Sch. 5C para. 3(1) modified by [S.I. 2004/2199 reg. 7\(1\)](#)
- Sch. 5C para. 3(6) modified by [S.I. 2004/2199 reg. 7\(2\)](#)
- Sch. 5C para. 5(1) modified by [S.I. 2004/2199 reg. 7\(3\)](#)
- Sch. 5C para. 3 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 5 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 6 words inserted by [S.I. 2005/3229 reg. 128](#)
- Sch. 5C para. 3(1)(f) words substituted by [2007 c. 3 Sch. 1 para. 347](#)